

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STG PORT SERVICES, LLC and STG DRAYAGE, LLC)	
)	
Plaintiff)	24 CV 01521
)	HON. JORGE ALONZO
)	MAG JUDGE BETH W. JANTZ
vs.)	
CDL 1000, INC., Batch Freight, LLC and Andrew Sobko)	
)	
Defendants)	

**CDL's MOTION TO DISMISS SECOND AMENDED
COMPLAINT AND TO STRIKE AND DISMISS ANDREW
SOBKO AND BATCH FEIGH LLC AS ALLEGED PARTY
DEFENDANTS FOR INSUFFICIENT SERVICE OF
PROCESS UNDER RULE 12(b)(5) F. R Civ. Pr.**

NOW COMES Defendant CDL 1000, Inc. a converted Illinois Corporation,
(:CDL'') by and through its counsel HERMAN J. MARINO and HERMAN J.
MARINO LTD., P.C., who hereby submits its MOTION TO STRIKE AND DISMISS
ANDREW SOBKO AND BATCH FREIGHT LLC AS ALLEGED PARTY
DEFENDANTS under Rule 12(b)(5), F. R Civ. Pr., stating as follows:

1. On February 23, 2024, STG filed its complaint against CDL 1000, INC,
naming no other defendants
2. On March 5, 2204, STG filed its first amended complaint against CDL
1000, LLC, naming no other defendants

3. On April 22, 2024, Herman Marino filed his appearance on behalf of CDL prior to CDL being served. Marno did not file his appearance on behalf of any other person or alleged party.
4. On October 23, 2024, STG filed its Motion for Leave to file filed it second amended complaint. The proposed amended complaint added 2 new defendants who were never previously named and have never been served with summons and complaint in this case: Andrew Sobko and Batch Freight LLC.
5. No appearance has been filed on behalf of Andrew Sobko or Batch Freight, LLC and the docket sheet reflects no summons has issued for service upon either.
6. The Motion for Leave to File Second Amended Complaint did not seek leave to add new parties defendant. The docket does not reflect service of process upon either.
7. It is the burden of the Plaintiff to show proper service under Rule 4, of the Federal Rules of Civil Procedure:

Federal Rule of Civil Procedure 12(b)(5) allows a party to file a motion to dismiss for insufficient service of process. When a defendant moves to dismiss pursuant to Rule 12(b)(5), "[t]he plaintiff bears the burden to demonstrate that the district court has jurisdiction over each defendant through effective service." *Cardenas v. City of Chicago*, 646 F.3d 1001, 1005 (7th Cir. 2011). If the district court finds that the plaintiff has not met that burden, the court must **"either dismiss the suit or specify a time within which the plaintiff must serve the defendant."** *Cardenas*, 646

F.3d at 1005. This decision is discretionary. *Id.*
Merchants Bank of Indiana v. Craik, 2024 U.S. Dist. LEXIS 66069, at *3
(S.D. Ind. Jan. 22, 2024)(emphasis added).

8. STG has a failed to comply with Rule 4, Federal Rules of Civil Procedure
by showing proper service upon ANDREW SOBKO and BATCH
FREIGHT, LLC.

WHEREFORE, Defendant CDL 1000, Inc, a converted Illinois corporation,
hereby respectfully request this Honorable Court enter an Order STRIKING and
DISMISSING Adnre Sobko and Batch Freight, LLC as parties defendant for lack of
personal jurisdiction over ANDREW SOBKO or BATCH FREIGHT LLC;
DISMISSING the Second Amended Compliant for lack of service upon all parties and
provide such further and other relief that this Court in equity deems just.

Dated: November 13, 2024

Respectfully submitted,

**CDL 1000, INC, a converted Illinois
corporation, Defendant**

/s/ Herman J. Marino

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CERTIFICATE OF SERVICE

The undersigned attorney further states that pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System General Order issued by the United States District Court for the Northern District of Illinois Eastern Division, I caused a copy of this NOTICE and this MOTION to be served upon all persons who have filed an appearance through the Court's electronic notice for Registrants as follows on Tuesday, November 13, 2024:

Kristen Kelly
Kristen.Kelly@WilsonElser.Com

Respectfully submitted,

/s/ Herman J. Marino

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